

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of the Connecticut Department of Public Utility Control For Delegated Authority to Implement Transitional Service-Specific and Technology-Specific Overlays)	CC Docket No. 99-200
)	NSD File No. L-02-03
)	

COMMENTS OF VOICESTREAM WIRELESS CORPORATION

VoiceStream Wireless Corporation (“VoiceStream”) respectfully submits these Comments pursuant to the Public Notice dated February 6, 2002, in the above-captioned proceeding. Therein, the Commission’s Common Carrier Bureau sought comment regarding the Petition of the Connecticut Department of Public Utility Control (“Connecticut Petition”) seeking the Commission’s approval to implement transitional service-specific and technology-specific overlays (collectively “specialized overlays” or “SOs”), as a method of area code relief for the 203 and 860 NPAs.

VoiceStream supports the Commission’s recent action lifting the blanket prohibition on SOs.¹ Indeed, VoiceStream was a participant in the Joint Wireless Commenters (JWC) proposal to make available to states, under tightly prescribed conditions, a transitional overlay as an alternative method of area code relief.² Accordingly, after consideration of the JWC and other proposals to encourage states to undertake timely area code relief, the Commission decided to examine and evaluate on a

¹ *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, FCC 01-362, released Dec. 28, 2001, hereinafter *Third Report and Order*.

² See *Third Report and Order*, paras. 67-94; with emphasis on footnote 182.

case-by-case basis, through use of eight specific criteria, individual state petitions seeking to implement a SO. In establishing this course of action, the Commission took deliberate care to state its view that SOs are a number resource optimization measure, subject to weighing the costs of the SO against the benefits to be realized, and that states are to address the eight criteria with specificity.³

VoiceStream believes the Connecticut Petition represents a noteworthy first effort to craft a potentially practical SO for consideration by the Commission. Nonetheless, the absence of certain basic details from the Petition leads VoiceStream to ask the Commission to refrain from granting Connecticut's request. Until such time that certain clarifications are disclosed, the Petition fails to demonstrate that the contemplated SO provides superior number resource optimization benefits compared to an all-service overlay, or that the SO's purported benefits outweigh the costs to be borne in the form of discriminatory and anti-competitive operations and market practices. The Commission's decision here will be precedential. Accordingly, absent more complete information concerning the details and scope of the state's SO request, the Commission must forbear from acting on the Connecticut Petition.

A. SERIOUS QUESTIONS REGARDING SCOPE, TRANSITION, TAKEBACKS AND TEN-DIGIT DIALING MUST BE DISCLOSED AND RESOLVED BEFORE THE COMMISSION CAN REVIEW THE REQUEST

VoiceStream would support an SO request that clearly meets the Commission's objectives of enhancing numbering resources, preserving consumers' geographic identity and minimizing potential discriminatory effects between and among carriers and consumers. As the Petition now stands, however, VoiceStream believes that significant

³ *Third Report and Order* at paras. 78-81.

clarification must be provided by Connecticut regarding important questions concerning the SO request's scope, transition mechanism, takebacks and ten-digit dialing policies before the Commission has the requisite detailed information to make a decision.

Scope. The Connecticut Petition does not specify which technologies and services would be required to participate in the SO, stating only that “non-geographic-based services” be included.⁴ The Petition notes that the “greater number of service providers that can be accommodated from the SOs would extend the lives of the existing NPAs and *afford more TNs to traditional services’ customers.*”⁵ This statement gives VoiceStream serious pause, since it would seem to indicate that the purpose of the SO is to benefit landline customers in the 203 and 860 NPAs. Not only is this inherently discriminatory to wireless carriers and their customers, but, considering that the Petition's statement follows a reference to “non-LNP capable service providers”, it serves to highlight the Connecticut Petition's mistaken assumption that all wireless customers are indifferent as to their assigned NPA and its geographic locale. The Commission must not grant the Connecticut Petition until the scope of participating telecommunications services and/or technologies is more clearly defined.

Transition. The Connecticut Petition fails to be explicit as to when the SO will convert to an all-services overlay. The Petition states a belief that, given wireless pooling is imminent, “it would be more practical to require the SO to become an all services overlay when the underlying NPA exhausts.”⁶ Given the Commission's requirement that a state requesting an SO demonstrate that the number resource utilization benefits exceed

⁴ Petition at 5.

⁵ Petition at 5. Emphasis added.

⁶ Petition at 7.

its costs, VoiceStream questions why the Connecticut Petition does not address how an SO would provide more benefits than simply undertaking, as soon as possible, all-service overlays for the 203 and 860 NPA's. VoiceStream is very concerned that the Connecticut Petition fails to undertake this cost/benefit analysis because the SO is viewed predominately as a method of providing prolonged landline access to the underlying NPA's. As the Petition states:

Because CTDPUc believes that exhaust of the underlying NPA's should be triggered when the new NPA's become all service overlays (See (3) below), telephone number assignments in the 203 and 860 NPA's should continue for end users of traditional service, thus further optimizing number assignment and extending the lives of these area codes.⁷

Thus, we see concern for traditional landline service impermissibly overshadowing concern for overall number resource optimization. VoiceStream believes the far more prudent, cost effective and equitable approach would be for Connecticut to undertake timely area code relief benefiting all telecommunications providers and their customers, via implementation of all service overlays using NPA's 475 and 959 for the 203 and 860 NPA's, respectively. Hence, the Commission must not grant the Connecticut Petition until clarification is received demonstrating how undertaking an SO would provide superior number resource utilization compared to the simple implementation of timely area code relief by all service overlays.

Takebacks. The Connecticut Petition fails to be explicit concerning takebacks, the burden of which, if implemented, would fall overwhelmingly on wireless customers. The Petition purportedly disavows the use of takebacks, but a close reading of the discussion reveals a focus on where telephone numbers may not need to be geographically defined, with a presumption that the state will work "with the carriers to

assign prospective *and existing* customers TNs from the new SOs.”⁸ VoiceStream is very concerned that this statement may indicate that Connecticut holds the mistaken assumption that wireless customers have no need for a geographic affinity. Combined with ambiguity regarding takebacks, VoiceStream believes this may open the door to restricting wireless carrier access to any telephone numbers in the underlying NPAs. This would have a serious impact on wireless carriers, who often have subscribers who require a number from the underlying NPA. Because the burdens of restricted (or zero) access to an underlying NPA fall overwhelmingly on the wireless carrier, these policies are *prima facie* discriminatory and impermissible. Therefore, the Commission must not grant the Connecticut Petition until clarification is received concerning the policy governing and extent of takebacks.

Ten-Digit Dialing. The Connecticut Petition fails to treat the subject of ten-digit dialing with specificity. While on the one hand Connecticut notes the pervasiveness of ten-digit dialing and that it would likely not be an issue presuming proper consumer education, on the other hand it states that it does “not believe that 10-digit dialing would be necessary with the implementation of the SOs at this time and will defer to the Commission for direction.”⁹ Wireless carriers need clarification from Connecticut on this point. When read in context with other statements in the Petition concerning the need to maintain the status quo solely for customers of traditional (landline) services, VoiceStream has serious concerns that this focus, combined with other factors including the length of a consumer education campaign, may result in a prolonged period during which the subscribers in the SO must undertake ten-digit dialing while landline customers

⁷ Petition at 6.

⁸ Petition at 7. Emphasis added.

retain seven-digit dialing in the underlying NPAs. Illustrating the inherently discriminatory nature of maintaining disparate dialing patterns, should the Connecticut Petition be granted as currently constituted, VoiceStream can easily envision a situation where all customers of a wireless provider (or any non-landline service) newly entering a local market would be doing ten-digit dialing while landline customers would be doing seven-digit dialing.

Therefore, the Commission must not grant the Connecticut Petition until clarification is received concerning the state's intended ten-digit dialing policy.

B. THE CONNECTICUT PETITION FAILS TO ESTABLISH THE NUMBER OPTIMIZATION BENEFITS OF THE PROPOSED SO

The Connecticut Petition does not adequately recognize or acknowledge the special and sometimes unique circumstances of numbering administration in that state. VoiceStream believes that, viewed in a more complete context, the Connecticut Petition fails to make the threshold showing required by the *Third Report and Order* that:

As an initial matter, a state commission seeking to implement a SO should discuss why the numbering resource optimization benefits of the proposed SO would be superior to implementation of an all-services overlay.¹⁰

The Connecticut Petition fails to give proper note to the fact that Connecticut has employed a wide range of number conservation procedures. Connecticut has had a reclamation program in place for two years; it has implemented pooling in the 203 NPA since February 2001, and pooling in NPA 860 since October 2000; all NXX code applications have been subject to prior review and approval from the CTDPU for the

⁹ Petition at 8.

¹⁰ Third Report and Order at para. 81.

last two years, and rationing has been in place for over two years as well. Further, Connecticut is soon to launch the nation's first trial of unassigned number porting (UNP).

Connecticut is to be commended for its consistent and diligent application of number resource conservation techniques. Yet, the fact remains that NPAs 203 and 860 are past exhaust: for NPA 203, the exhaust date based on the rationed amount was fourth quarter 2001; for NPA 860, the exhaust date was third quarter 2001.¹¹ These facts are not stated or intended to be criticism of the state's actions. These facts are recited to highlight the fact that the time has come for Connecticut to provide timely area code relief for all telecommunications carriers. With thousands-block pooling in place on the wireline side, and within nine months of being in place for covered CMRS carriers in the underlying NPAs, it is not reasonable to assume, without careful analysis, that an SO will provide meaningful relief in a non-discriminatory manner. Due to the significantly different growth rates between wireline and wireless services, imposition of an SO may serve to assure that new wireline customers in the underlying NPA have access to numbers in their "home" NPA and that new customers of wireless and other services would have access to numbers in the SO, but this access would not be accomplished on an equitable, non-discriminatory basis. In this specific circumstance, the time has passed for an SO. The time has arrived for Connecticut to do relief planning that encompasses all services in the form of an all-services overlay. Hence, the Connecticut Petition fails the threshold test set by the *Third Report and Order*.

Confirming this analysis, the Commission has noted that, to provide optimum value, an SO should not be implemented where the underlying NPA has a projected life

¹¹ See *Number Resource Utilization and Forecast Report*, dated June 2001.

span of less than one year.¹² As noted, both the 203 and 860 NPAs fail this test. Hence, in the case of Connecticut, the SO's primary purpose is to further postpone the long awaited need for full area code relief.

CONCLUSION

The Connecticut Petition does not meet the Commission's enunciated thresholds regarding numbering resource optimization nor does it address criteria with required specificity. Absent clarification from the state on the points discussed herein, the Commission should not act on the Connecticut Petition.

Respectfully submitted,

VoiceStream Wireless Corporation

By: /s/ Brian T. O'Connor
Brian T. O'Connor, Vice President
Legislative and Regulatory Affairs

Anna Miller, Director
Numbering Policy

Harold Salters, Director
Federal Regulatory Affairs

401 Ninth Street, N.W., Suite 550
Washington, D.C. 20004
202-654-5900

Michele K. Thomas, Manager
Regulatory Numbering Policy
16 Wing Drive
Cedar Knolls, New Jersey 07927
973-290-2566

Dated: February 26, 2002

¹² Third Report and Order at para. 85.